

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

JOHN J. BONAFEDE

Plaintiff,

vs.

**NOTICE OF REMOVAL**

Case No.

WALMART STORE #2355  
WALMART INC.

Defendants.

---

PLEASE TAKE NOTICE that the Defendants, Defendants WALMART STORE #2355 and WALMART INC. (collectively, “Removing Defendants”), by their attorneys, Bennett Schechter Arcuri & Will LLP, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of the action styled *John J. Bonafe, Plaintiff, versus Walmart Store #2355 and Walmart Inc., Defendants* (the “Action”), from the Supreme Court of the State of New York, County of Erie, to the United States District Court for the Western District of New York.

In support thereof, the Removing Defendants states:

1. On March 18, 2024, Plaintiff John Bonafe (‘‘Plaintiff’’) commenced the action by filing a Summons and Complaint in the Supreme Court of the State of New York, County of Erie, against the Removing Defendants (**Exhibit A**).

2. On April 11, 2024, the Removing Defendants appeared in the Action by filing their Answer (**Exhibit B**).

3. After the commencement of the action, and in accordance with N.Y. CPLR 3017(c), the Removing Defendants served a Supplemental Demand for Relief on Plaintiff, a copy of which is attached and incorporated herein by reference as **Exhibit C**.

4. On May 16, 2024, the Removing Defendants received Plaintiff’s Letter

Response to Defendants' Demand for Supplemental Relief, which included a demand for the sum of one million five hundred thousand dollars (\$1,5000,000) in damages, a copy of which is attached as **Exhibit D**.

5. Plaintiff John Bonafede is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. (See Ex. A).

6. Removing Defendant, Walmart Inc., is a corporation incorporated under the laws of the State of Delaware, with a principal place of business in the State of Arkansas. Accordingly, for the purposes of this Notice of Removal, Defendant Walmart Inc. is a citizen of the States of Delaware and Arkansas.

7. The named Defendant, "Walmart Store #2355," is not an existing legal entity and for the purpose of this action, any intended Walmart entity incorrectly sued as "Walmart Store #2355" will be subsumed under Defendant Walmart Inc., a citizen of Delaware and Arkansas.

8. Based on the foregoing, this Court has original subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§1332(a) and 1441(b), because (a) there is complete diversity of citizenship among the parties; (b) the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs; and (c) no party in interest who is properly joined and served as a Defendant is a citizen of New York State. The Action may, therefore, be removed pursuant to 28 U.S.C. § 1441(b).

9. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3) and (c), because it is filed within thirty (30) days of the Removing Defendant's receipt of Plaintiff's Supplemental Demand for Relief where it was first ascertainable that the case was removable, and within one (1)

year of commencement of the Action.

10. Pursuant to 28 U.S.C. § 1446(b)(2), all Defendants who have been properly joined and served join in and consent to the removal of the Action.

11. Pursuant to 28 U.S.C. § 1441(a), removal venue exists in the United States District Court for the Western District of New York, because the Supreme Court, Erie County (the Court in which the Action was originally filed) is within the jurisdiction of the Western District of New York.

12. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings, and orders served to date upon the Removing Defendants are appended hereto and pursuant to Local Rule 81(a)(3), an index of all documents filed in the state court action is attached hereto as **Exhibit E**.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being served upon Plaintiff and is being filed with the Clerk of the Supreme Court, Erie County. *See* Notice of Filing of Notice of Removal, with Affidavit of Service, attached hereto as **Exhibit F**.

14. The Removing Defendants reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, Removing Defendants request that the case styled *John J. Bonafede, Plaintiff, versus Walmart Store #2355 and Walmart Inc., Defendants*, Supreme Court of the State of New York, County of Erie, Index No. 804012/2024, be removed to this Court, and that this Court take subject matter jurisdiction over this Action.

Dated: Buffalo, New York  
June 12, 2024

Yours, etc.

*/s/ Pauline C. Will*

---

BENNETT ARCURI & WILL LLP

By: Pauline C. Will, Esq.

*Attorneys for Defendants,*

701 Seneca Street, Suite 609

Buffalo, NY 14210

Phone: (716) 242-8100

To: Rebecca Lynn Postek, Esq.  
The Dietrich Law Firm P.C.  
*Attorneys for Plaintiff*  
101 John James Audubon Parkway  
Buffalo, New York 14228  
Phone: (716) 839-3939